

Congress of the United States

Washington, DC 20515

December 15, 2023

The Honorable Clarence Thomas
Associate Justice
Supreme Court of the United States
1 First Street NE
Washington, DC 20543

Dear Justice Thomas,

This week, Special Counsel Jack Smith asked the Supreme Court to decide a key question in the case of *United States of America v. Donald J. Trump*, a case in which Mr. Trump is charged with conspiring to overturn the legitimate results of the 2020 presidential election, conspiring to obstruct the certification of the electoral vote, and actually obstructing the certification of the electoral vote.¹ In this week's filing, Mr. Smith asked the Supreme Court to grant certiorari to decide "Whether a former President is absolutely immune from federal prosecution for crimes committed while in office or is constitutionally protected from federal prosecution when he has been impeached but not convicted before the criminal proceedings begin."² The Supreme Court has directed Mr. Trump to file a response to the request for certiorari.³ For the reasons explained below, we strongly implore you to exercise your discretion and recuse yourself from this and any other decisions in the case of *United States v. Trump*.

Faith in the Supreme Court has plummeted, and fewer than half of all Americans trust the Supreme Court.⁴ Public perception is growing that the Supreme Court flouts the rules, in large part due to your recently reported ties to and luxury travel with billionaire Republican donors that you hid for decades.⁵ The public pressure has grown so intense, that last month the Supreme Court announced a formal—though unenforceable—Code of Conduct.⁶ You signed the Code, publicly proclaiming that you subscribe to it. In Canon 3B, the Code states that "A Justice should disqualify himself or herself in a proceeding in which the Justice's impartiality might reasonably be questioned, that is, where an unbiased and reasonable person who is aware of all relevant circumstances would doubt that the Justice could fairly discharge his or her duties."⁷ The Code details such instances, including those in which "The Justice or Justice's spouse... is known by the Justice:... (iii) to have an

¹Indictment, *United States v. Trump*, (D.D.C. Aug 01, 2023), available at:

https://www.justice.gov/storage/US_v_Trump_23_cr_257.pdf.

²Petition for Writ of Certiorari, *United States v. Trump*, __ U.S. __ (2023), available at:

https://www.supremecourt.gov/DocketPDF/23/23-624/292946/2023121115417267_No.%2023-624%20U.S.%20v.%20Donald%20J.%20Trump%20Petition.pdf.

³ABC News, "Supreme Court will consider special counsel's request to rule on Trump's immunity in Jan. 6 case," Katherine Faulders and Alexander Mallin, December 11, 2023, <https://abcnews.go.com/US/special-counsel-asks-supreme-court-rule-presidential-immunity/story?id=105556211>.

⁴Gallup, "Approval of U.S. Supreme Court Down to 40%, a New Low," Jeffrey M. Jones, September 23, 2021,

<https://news.gallup.com/poll/354908/approval-supreme-court-down-new-low.aspx>.

⁵See collection of 2023 stories at ProPublica, "Friends of the Court: SCOTUS Justices' Beneficial Relationships with Billionaire Donors," <https://www.propublica.org/series/supreme-court-scotus>.

⁶ABC News, "Under ethics pressure, Supreme Court announces it's adopting code of conduct," Devin Dwyer, November 12, 2023, <https://abcnews.go.com/Politics/ethics-pressure-supreme-court-announces-adopting-code-conduct/story?id=104856337>; U.S. Supreme Court, Code of Conduct for Justices of the Supreme Court of the United States, available at:

https://www.supremecourt.gov/about/Code-of-Conduct-for-Justices_November_13_2023.pdf.

⁷Code of Conduct for Justices of the Supreme Court of the United States, Canon 3B(2).

interest that could be substantially affected by the outcome of the proceeding; or (iv) likely to be a material witness in the proceeding.”⁸

We know through public reporting and through Congressional investigations that your wife, Virginia (“Ginni”) Thomas was intimately involved in Mr. Trump’s alleged efforts to overturn the 2020 election and to obstruct its certification – the very conspiracies at issue in this case. Your wife not only attended the pro-Trump rally that preceded the January 6th attack on the United States Capitol, she was one of nine board members for a conservative political group that helped lead the “Stop the Steal” movement.⁹ She traded at least 29 text messages with Mr. Trump’s Chief of Staff (Mark Meadows) in which she urged him to “pursue unrelenting efforts to overturn the 2020 presidential election,” starting immediately after Election Day 2020 and ending only days after the January 6th attack on the U.S. Capitol.¹⁰ In these text messages, your wife pleaded with Mr. Meadows to continue the fight to overturn the election results, calling the election a “heist” and saying in one message: “Sounds like Sidney and her team are getting inundated with evidence of fraud. Make a plan. Release the Kraken and save us from the left taking America down.”¹¹ Your wife also pressed Arizona and Wisconsin lawmakers to overturn President Biden’s 2020 victory, urging them to set aside President Biden’s popular-vote victory and to choose their own presidential electors, despite state law to the contrary.¹² These details about your wife’s activities raise serious questions about your ability to be or even to appear impartial in any cases before the Supreme Court involving the 2020 election and the January 6th insurrection.

If you want to show the American people that the Supreme Court’s recent Code of Conduct is worth more than the paper it is written on, you must do the honorable thing and recuse yourself from any decisions in the case of *United States v. Trump*.

Sincerely,



Henry C. "Hank" Johnson, Jr.
Member of Congress

⁸*Id.* Cannon 3B(2)(d).

⁹CNN Politics: “January 6 committee has text messages between Ginni Thomas and Mark Meadows, Ryan Nobles, Annie Grayer, Zachary Cohen, and Jamie Gangel, March 25, 2022, <https://www.cnn.com/2022/03/24/politics/ginni-thomas-mark-meadows-text-messages/index.html>; New York Times, “The Long Crusade of Clarence and Ginni Thomas,” Danny Hakim and Jo Becker, February 22, 2022, <https://www.nytimes.com/2022/02/22/magazine/clarence-thomas-ginni-thomas.html>.

¹⁰Washington Post, “Virginia Thomas urged White House chief to pursue unrelenting efforts to overturn the 2020 election, texts show,” Bob Woodward and Robert Costa, March 24, 2022,

<https://www.washingtonpost.com/politics/2022/03/24/virginia-thomas-mark-meadows-texts>; CBS News, “Ginni Thomas, Justice Clarence Thomas’ wife, exchanged texts with Mark Meadows about efforts to overturn the 2020 election,” March 24, 2022, <https://www.cbsnews.com/news/ginni-thomas-clarence-wife-mark-meadows-texts-2020-election-overturn>.

¹¹CNN Politics: “January 6 committee has text messages between Ginni Thomas and Mark Meadows, Ryan Nobles, Annie Grayer, Zachary Cohen, and Jamie Gangel, March 25, 2022, <https://www.cnn.com/2022/03/24/politics/ginni-thomas-mark-meadows-text-messages/index.html>

¹²Washington Post, “Ginni Thomas pressed Wisconsin lawmakers to overturn Biden’s 2020 victory,” Emma Brown, September 1, 2022, <https://www.washingtonpost.com/investigations/2022/09/01/ginni-thomas-wisconsin-bernier-tauchen/>.



Jamie Raskin
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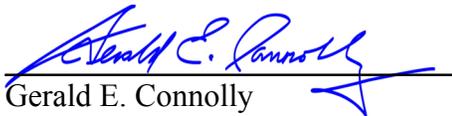
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